IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 130 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PATEL GORDHANBHAI KHODIDAS

Versus

PATEL MOHANBHAI GOVABHAI

Appearance:

1. Civil Revision Application No. 130 of 1994

MR VC DESAI for Petitioner No. 1

MR KS JHAVERI for Respondent No. 1

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 18/01/2002

ORAL JUDGEMENT

1. The petitioner was the plaintiff in Regular Civil Suit No.94 of 1983 in the Court of Civil Judge (J.D.) at Patan. He had filed the said suit for declaration that

he was the tenant of the suit premises. His case was that the opponent, after purchasing the suit premises from the original landlord, had illegally trespassed in the suit premises and thrown away household articles of the petitioner and thus the opponent had illegally taken possession of the suit premises. The petitioner, therefore, prayed for a decree of restoration of possession. The trial Court, after recording the evidence led by the party, came to the conclusion that the petitioner had failed to prove that he was the tenant of the suit premises and that he had been illegally dispossessed by the opponent. On appeal, the learned Extra Assistant Judge, Mehsana confirmed the said findings of the trial Court and dismissed the appeal. The petitioner has, therefore, filed this revision application under Section 29(2) of the Bombay Rent Act.

2. It is contended on behalf of the petitioner that the Courts below have erred in appreciating the evidence on record and have erred in not believing petitioner's case. However, the findings recorded by the Courts below are findings of fact based on appreciation of the evidence on record. It is well-settled that powers under Section 29(2) of the Bombay Rent Act are revisional powers with which the High Court is clothed. It empowers the High Court to correct errors which may make the decision contrary to law and which errors go to the root of the decision but that does not vest the High Court with the power to rehear the matter and reappreciate the evidence. The mere fact that a different view is possible on reappreciation of evidence cannot be a ground for exercise of revisional jurisdiction and the High Court cannot substitute its own findings on a question of fact for the findings recorded by the Courts below on reappraisal of evidence. In the present case, the Courts have recorded clear findings of fact which are supported by the evidence on record. It cannot be said that the findings are unreasonable or perverse so as to justify interference. The Courts have not committed any error which would make their decision contrary to law under Section 29(2). No case is made out for interference in the present revision under Section 29(2) of the Bombay Rent Act. The revision application, therefore, fails and is dismissed. Rule discharged.

18-1-2002 (M.C.Patel, J.)

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